

JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney

BRIAN STRETCH (CSBN 163973)
Chief, Criminal Division

MARK L. KROTOSKI (CASBN 138549)
Assistant U.S. Attorney

E-FILED 7/9/08

1301 New York Avenue, Suite 600
Washington, D.C. 20530-0016
Telephone: (202) 307-6389
Facsimile: (202) 514-6113
E-Mail: Mark.Krotoski@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID M. FISH,
aka x000x,

Defendant.

No. CR 005-0445 RMW

JOINT SENTENCING MEMORANDUM
REGARDING RESTITUTION FOR
DEFENDANT DAVID M. FISH XXXXX
XXXXXXXXXXXXXXXXXXXXXXX

The parties jointly submit this supplemental sentencing memorandum on the issue of restitution.

On April 28, 2008, the Court imposed sentence for defendant David M. Fish in the Southern District of Iowa case (CR 06-00109-RMW) and in the Northern District of California case (CR 06-00054-RMW). The Court determined, and the parties agreed, that it was appropriate to decide the issue of restitution separately and set a hearing for June 16, 2008.

The parties have further considered the matter of restitution and stipulate as follows:

JOINT SENTENCING MEMORANDUM REGARDING RESTITUTION FOR DEFENDANT DAVID M. FISH
CR 06-00054-RMW; CR 06-00109-RMW

1 1. The total amount of restitution for defendant David M. Fish based on his
2 involvement in the Southern District of Iowa case (CR 06-00109-RMW) is \$90,787.98. Of this
3 amount, \$9,426.98 is due to the Recording Industry Association of America; and \$81,361 is due
4 to the Business Software Alliance.

5 2. The total amount of restitution for defendant David M. Fish based on his
6 involvement in the Northern District of California case (CR 06-00054-RMW) is \$982,579.62
7 (which reflects activity based on the CHUD warez site). Of this amount, \$21,760 is due to the
8 Motion Picture Association of America; \$937,619.62 is due to the Business Software Alliance;
9 and \$23,200 is due to the Entertainment Software Association.

10 3. Of the \$982,579.62 total restitution in the Northern District of California case,
11 defendant Fish is individually responsible for \$146,981.46.

12 4. Of the \$982,579.62 total restitution in the Northern District of California case,
13 defendant Fish is jointly and severally liable in the amount of \$835,598.16, with the following
14 co-defendants in the following amounts:

- | | | | |
|----|----|---|--------------|
| 15 | a. | <i>United States v. Daniel Van Horn</i> , CR 05-00710-RMW | \$19,912.16 |
| 16 | b. | <i>United States v. Curtis Salisbury</i> , CR 05-00505-RMW | \$4,000.00 |
| 17 | c. | <i>United States v. Ryan Zeman</i> , CR 05-00586-RMW | \$120,000.00 |
| 18 | d. | <i>United States v. Nathaniel E. Lovell</i> , CR 05-00445-RMW | \$4,589.94 |
| 19 | e. | <i>United States v. Mark G. Carter II</i> , CR 05-00709 RMW;
CR 05-00746 RMW [Rule 20, D CT] | \$4,964.82 |
| 20 | f. | <i>United States v. Jonathan Stanley Golenbock</i> ,
CR 05-00761-RMW | \$63,699.98 |
| 22 | g. | <i>United States v. Philip Kang</i> , CR 05-00795-RMW | \$23,549.89 |
| 23 | h. | <i>United States v. Paul Aleman</i> , CR 05-00734-RMW | \$30,454.06 |
| 24 | i. | <i>United States v. Deston Evans</i> , CR 05-00734-RMW | \$10,982.00 |
| 25 | j. | <i>United States v. Moises Nunez</i> , CR 05-00734-RMW | \$34,595.54 |
| 26 | k. | <i>United States v. Stephen Brown</i> , CR 05-00734-RMW | \$660.00 |
| 27 | l. | <i>United States v. Matthew Fong</i> , CR 05-00054-RMW | \$9,149.00 |
| 28 | m. | <i>United States v. Donovan Kargenian</i> , CR 05-00054-RMW | \$89,614.36 |

1	n.	<i>United States v. David Siloac</i> , CR 05-00054-RMW	\$4,074.00
2	o.	<i>United States v. Matthew Thompson</i> , CR 05-00054-RMW	\$22,380.93
3	p.	<i>United States v. Gregory Dickman</i> , CR 06-00054-RMW	\$31,515.50
4	q.	<i>United States v. Johnny Russell</i> , CR 05-00054-RMW	\$11,508.93
5	r.	<i>United States v. Ali Ghani</i> , CR 05-00054-RMW	\$107,663.85
6	s.	<i>United States v. Susan Rempe</i> , CR 06-00252-RMW	\$3,471.91
7	t.	<i>United States v. Phillip Templeton</i> , CR 05-00054-RMW	\$21,153.32
8	u.	<i>United States v. Paul Sherman</i> , CR 06-00331-RMW	\$4,714.00
9	v.	<i>United States v. Shon Peterman</i> , CR 06-00246-RMW	\$3,577.98
10	w.	<i>United States v. Ray Morada</i> , CR 06-00246-RMW	\$21,483.86
11	x.	<i>United States v. Tom Leung</i> , CR 06-00246-RMW	\$18,385.76
12	y.	<i>United States v. Allen Soares</i> , CR 06-00246-RMW	\$140.00
13	z.	<i>United States v. Brian Verhoeven</i> , CR 06-00247-RMW	\$145,218.00
14	aa.	<i>United States v. Terrance McCormick</i> , CR 06-00140-RMW	\$15,881.30
15	bb.	<i>United States v. Ryan Porter</i> , CR 06-00231-RMW	\$3,611.60
16	cc.	<i>United States v. Colin Jacobson</i> , CR-06-00477-RMW	\$4,645.47

17 5. The parties stipulate and agree to the foregoing, and urge the Court to adopt the
18 foregoing restitution. If the Court so finds, the parties urge the Court to vacate the hearing set for
19 June 16, 2008 at 9:00 a.m.

20 So Stipulated.

21 Dated: May 21, 2008

JOSEPH P. RUSSONIELLO
United States Attorney

/s/

24 _____
MARK L. KROTOSKI
Assistant United States Attorney

25 Dated: May 21, 2008

/s/

27 _____
MICHAEL W. ARMSTRONG
Attorney for Defendant

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ORDER

IT IS SO ORDERED.

Upon good cause shown, and in light of the stipulation of the parties, the Court concludes that defendant David M. Fish is responsible for restitution in the foregoing amounts.

The hearing set for June 16, 2008 at 9:00 a.m. is vacated.

Dated: XXXXXXXX July 9, 2008

/s/ Ronald M. Whyte

RONALD M. WHYTE
United States District Judge

CERTIFICATE OF SERVICE

UNITED STATES v. ALI GHANI

NO. CR 06-00054-RMW

I, Glenn Gordon, declare that I am a citizen of the United States, over the age of 18 years and not a party to the within action.

I hereby certify that a copy of the foregoing:

**JOINT SENTENCING MEMORANDUM REGARDING RESTITUTION FOR
DEFENDANT DAVID M. FISH [AND PROPOSED ORDER]**

was served today ___ by hand; ___ by facsimile; ___ by Federal Express; x by first class mail by placing a true copy of each such document(s) in a sealed envelope with postage thereon fully paid, either in a U.S. Mail mailbox or in the designated area for outgoing U.S. Mail in accordance with the normal practice of the United States Attorney's Office; ___ by placing in the Public Defender's pickup box located in the Court Clerk's Office.

Michael W. Armstrong, Esq.
Nolan Armstrong et al LLP
600 University Ave
Palo Alto, CA 94301
FAX (650) 326-9704

Benjamin Flores
U.S. Probation Officer
United States Probation Office
Northern District of California
280 South First Street
San Jose, CA 95113
Fax (408) 535-5206

I declare under penalty of perjury that the foregoing is true and correct, and that this certificate was executed at San Jose, California

DATED: May __, 2008

LAURI GOMEZ
Paralegal